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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 12/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/632,327

Applicant(s)

KILKENNY ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE filed on October 13, 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 13, 2005 has been entered.
2. Claims 1-31 are pending.
3. The submission of the abstract of the disclosure on a separate sheet is acknowledged.
4. The rejection of claims 1-31 under 35 U.S.C. 112, second paragraph is withdrawn in view of applicants' amendment.
5. The rejection of claims 1-12 and 31 under 35 U.S.C. 102(b) as being anticipated by Barby et al. (US Patent No. 4,448,704) is withdrawn in view of applicants' amendment.
6. The rejection of claims 1-12 and 31 under 35 U.S.C. 102(b) as being anticipated by Magyar (US Patent No. 4,613,446) is withdrawn in view of applicants' amendment.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 13, 18, 21 and 24 stand rejected under 35 U.S.C. 102(b) as being anticipated by Magyar (US Patent No. 4,613,446).

Magyar teaches a gelled detergent compositions which are contained in cleaning devices such as plastic mesh pads and sponges (see abstract). The cleaning composition comprises 50-69 wt% water, 2-10 wt% alkali metal hydroxide, 10-20 fatty acids and 5-20 wt% surfactant, having a pH of about 7.5 to 8.5 (see col. 3, lines 9-26). In the Example, Magyar teaches a composition comprising 56.49 wt% deionized water, 4.50 aqueous 50 wt% sodium hydroxide solution, 15.00 wt% stearic acid (which is a Generally Recognized as Safe (GRAS) ingredient), and plastic mesh pads are dipped into the hot detergent solution and the solution is allowed to gel, and the prepared pads are evaluated on the whitewall tires, vinyl tops and bumpers of automobiles (see col. 6, lines 1-55). The composition does not contain any organic solvents or quaternary ammonium compounds. Cleaning is effected by dipping the sponge product containing the gelled layer in water and then abrading the surface to be cleaned with the wet sponge containing the detergent, and alternatively, surfaces to be cleaned can be pre-wetted and the sponge product can be directly applied to start the cleaning and scrubbing operation (see col. 5, lines 57-68). As the word "about" permits some tolerance, (at least about 10% was held to be anticipated by a

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teaching of a content not to exceed about 8%), see *In re Ayers*, 154 F 2d 182, 69 USPQ 109 (CCPA 1946) and *In re Erickson*, 145 USPQ 207), the upper limit of the pH of 8.5 of Magyar reads on the “greater than about 10” of the instant claims. The composition of Magyar inherently provides disinfectancy or sanitation because same ingredients have been utilized. Hence, Magyar anticipates the claims.

9. Claims 1, 3, 5, 7, 9-13, 16-18, 21, 24, 27-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Piltingsrud (US Patent No. 6,402,851).

Piltingsrud teaches a PVA (polyvinyl alcohol) pad for cleaning glass substrates (see col. 3, lines 2-5) comprising potassium hydroxide having a pH of about 9 to about 12 (see col. 3, lines 61-63; col. 6, lines 50-53). Piltingsrud also teaches a method of cleaning glass substrates after being polished with a slurry comprising lanthanide oxide particles which comprises scrubbing the polished glass substrate with polyvinyl alcohol pads with potassium hydroxide having a pH of between about 9 and about 12 (see claims 22 and 42), for example pH 10.0 to 10.5 (see Examples 1 and 2, col. 7, lines 57-58 and col. 8, lines 52-53). With respect to claim 17, as the word “about” permits some tolerance, (at least about 10% was held to be anticipated by a teaching of a content not to exceed about 8%), see *In re Ayers*, 154 F 2d 182, 69 USPQ 109 (CCPA 1946) and *In re Erickson*, 145 USPQ 207), the upper limit of “about 12” of Piltingsrud reads on the “greater than about 12” of claim 17. The PVA pad of Piltingsrud does not contain organic solvents or quaternary ammonium compounds. Even though Piltingsrud does not explicitly disclose greater than 0.05% by weight of potassium hydroxide, it would be inherent in the potassium hydroxide-containing PVA pad of Piltingsrud to have a proportion within those

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recited because their pH are the same. The pad of Piltingsrud also inherently provides disinfectancy or sanitation because same ingredients have been utilized. Hence, Piltingsrud anticipates the claims.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 14, 15, 19, 20, 22, 23, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magyar as applied to the above claims, and further in view of Barger et al. (US Patent No. 6,562,142), hereinafter "Barger".

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Magyar teaches the features as described above. Magyar, however, fails to disclose the incorporation of hydrophilic polymer and hydrophilic nanoparticle into the composition.

Barger teaches a similar hard surface treating composition comprising nanoparticles with particle sizes ranging from about 2 nm to about 400 nm, for example, LAPONITE™ such that when applied to a hard surface, the hard surface is hydrophilically modified and exhibits surprising and significantly improved wetting and sheeting, quick drying, uniform drying, cleaner appearance and improved transparency properties (see col. 10, lines 18-64; col. 12, lines 33-50). Barger also teaches that the composition comprises a polymer which is capable of rendering the surface cleaned hydrophilic (see col. 4, lines 7-36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the nanoparticles and polymer of Barger into the composition of Magyar because this will provide the composition with surprising and significantly improved wetting and sheeting, quick drying, uniform drying, cleaner appearance and improved transparency properties as taught by Barger.

12. Claims 1-14, 16-19, 21-22, 24-25 and 27-31 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Barnabas et al. (Pub. No. US 2003/0119705), hereinafter "Barnabas".

Barnabas teaches a pre-moistened wipe for treating a surface, the moistened wipe comprising a substrate and an aqueous composition (see abstract). In one embodiment, especially wherein the pre-moistened wipes are to be applied on hard surfaces soiled with very tough greasy or grease-containing soil as often can be found on kitchen surfaces, the pH range of the aqueous solution composition, squeezed out from the pre-moistened wipe, is from about 6 to

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about 13 (see page 5, section [0060]) and wherein the composition comprises base buffers to adjust pH, for example, inorganic bases such as sodium hydroxide or potassium hydroxide which are used at a level from about 0.01% to about 0.5% (see page 5, sections [0061-0062]). A low residue surfactant such as an alkyl polyglycoside (also a GRAS ingredient) is an essential ingredient of the composition applied to the pre-moistened wipes (see page 5, sections 0064-0068]). Solvents like aliphatic alcohols and glycols are optional ingredients and, when present, are effective at levels from about 0.5% to about 25% (see pages 11-12, sections [0131-0142]). Barnabas also teaches a process of cleaning a surface, preferably a hard surface, comprising the step of contacting, preferably wiping, said surface with the pre-moistened wipe (see section [0166] on page 14). The liquid composition may comprise a variety of other optional ingredients depending on the technical benefit aimed for and the surface treated, for example, polymers (see page 13, section [0155]). Barnabas, however, fails to specifically disclose a wipe wherein the liquid composition comprises less than 4% by weight total organic solvent having a pH greater than 10 or about 10 and/or sodium hydroxide in amounts as those recited.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the proportions of the organic solvent, sodium hydroxide and pH of the composition because optimization for the best results is within the level of ordinary skill in the art. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch*, 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA 1980). See also *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re*

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Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). In addition, a *prima facie* case of obviousness exists because the claimed ranges overlap or lie inside ranges disclosed by the prior art, see *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976; *In re Woodruff*, 919 F.2d 1575, 16USPQ2d 1934 (Fed. Cir. 1990). See MPEP 2131.03 and MPEP 2144.05I.

13. Claims 15, 20, 23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnabas as applied to the above claims, and further in view of Barger.

Barnabas teaches the features as described above. Barnabas, however, fails to disclose a hydrophilic nanoparticle into the wipe.

Barger teaches a hard surface treating composition comprising nanoparticles with particle sizes ranging from about 2 nm to about 400 nm, for example, LAPONITE™ such that when applied to a hard surface, the hard surface is hydrophilically modified and exhibits surprising and significantly improved wetting and sheeting, quick drying, uniform drying, cleaner appearance and improved transparency properties (see col. 10, lines 18-64; col. 12, lines 33-50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the nanoparticles of Barger into the liquid composition in the wipe of Barnabas because this will provide the composition with surprising and significantly improved wetting and sheeting, quick drying, uniform drying, cleaner appearance and improved transparency properties as taught by Barger.

14. Claims 1-14, 16-19, 21-22, 24-25, 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherry et al. (US Patent No. 6,716,805), hereinafter "Sherry".

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Sherry teaches cleaning liquid composition on a substrate for cleaning hard surfaces (see abstract). A suitable preferred cleaning solution for use in the context of floors, counters, walls, either as a stand-alone or in conjunction with conventional sponges or with disposable pre-moistened wipes or pads comprises from about 0.001% to about 0.25% of hydrophilic polymer, from about 0.001% to about 0.5% of detergent surfactant, preferably comprising alkylpolyglucoside (which is also a Generally Recognized as Safe ingredient); optionally from about 0.001% to about 0.5% volatile buffer material, e.g. ammonia, 1-dimethylamino-2-methyl-1-propanol; optionally from about 0.001% to about 0.05% non-volatile buffer material, e.g. potassium hydroxide; optionally, from about 0.001% to about 0.5% other optional adjuvants such as dyes and/or perfumes (see col. 61, line 62 to col. 62, line 29). One embodiment relates to the use of a composition with hydrophilic polymer and a cleaning pad comprising a superabsorbent material to effect cleaning of soiled surfaces, i.e., the process of cleaning a surface comprising applying an effective amount of a detergent composition, typically containing no more than about 1% detergent surfactant; a level of hydrophobic materials, including solvent, that is less than about 5%; and having a pH of more than about 9 and absorbing the composition in an absorbent structure comprising superabsorbent material (see col. 62, lines 33-49). The residual disinfectancy can also be achieved or enhanced using pH and compositions at a pH 10.5 or greater is found to deliver the desired residual efficacy and preferred actives that are effective as a result of pH include sodium hydroxide and potassium hydroxide (see col. 38, lines 29-43). The above teachings do not include quaternary ammonium compounds. Sherry, however, fails to specifically disclose a wipe comprising less than 4% by weight total organic solvent, greater than 0.05% by weight potassium hydroxide and a composition having a pH greater than 10.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the proportions of the organic solvent, potassium hydroxide and pH of the composition because optimization for the best results is within the level of ordinary skill in the art. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch*, 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA 1980). See also *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). In addition, a *prima facie* case of obviousness exists because the claimed ranges overlap or lie inside ranges disclosed by the prior art, see *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976; *In re Woodruff*, 919 F.2d 1575, 16USPQ2d 1934 (Fed. Cir. 1990). See MPEP 2131.03 and MPEP 2144.05I.

15. Claims 15, 20, 23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherry as applied to the above claims, and further in view of Barger.

Sherry teaches the features as described above. Sherry, however, fails to disclose a hydrophilic nanoparticle into the wipe.

Barger teaches a hard surface treating composition comprising nanoparticles with particle sizes ranging from about 2 nm to about 400 nm, for example, LAPONITE™ such that when applied to a hard surface, the hard surface is hydrophilically modified and exhibits surprising and significantly improved wetting and sheeting, quick drying, uniform drying, cleaner appearance and improved transparency properties (see col. 10, lines 18-64; col. 12, lines 33-50).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the nanoparticles of Barger into the liquid composition in the wipe of Sherry because this will provide the composition with surprising and significantly improved wetting and sheeting, quick drying, uniform drying, cleaner appearance and improved transparency properties as taught by Barger.

Response to Arguments

16. Applicants' arguments filed October 13, 2005 have been fully considered but they are not persuasive.

With respect to the remaining anticipation rejection of claims 13, 18, 21 and 24 based upon Magyar, Applicants argue that the "pH of about 7.5 to 8.5" does not teach "a pH greater than about 10" and therefore Magyar does not anticipate all the limitations of claims 13, 18, 21 and 24.

The Examiner respectfully disagrees with the above argument because, as stated above, the word "about" permits some tolerance, (at least about 10% was held to be anticipated by a teaching of a content not to exceed about 8%), see *In re Ayers*, 154 F 2d 182, 69 USPQ 109 (CCPA 1946) and *In re Erickson*, 145 USPQ 207), hence, the upper limit of the pH of 8.5 of Magyar reads on the "greater than about 10" of the instant claims.

With respect to the obviousness rejection based upon Barnabas, Applicants argue that Barnabas teaches only 6 compositions having basic pH (Q, R, S, T, Z1, Z2 following paragraph [0200], however, these compositions contain 10% solvent and there is no indication that they might be effective to provide disinfectancy or sanitation. Applicants also argue that Barnabas

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does not suggest or provide the expectation of success that high pH and low solvent compositions are able to achieve disinfection or sanitization.

The Examiner respectfully disagrees with the above arguments because a reference is not limited to the working examples, see *In re Fracalossi*, 215 USPQ 569 (CCPA 1982). Barnabas, as cited above, teaches alkaline-premoistened wipes having a pH range from about 6 to about 13, preferably from pH about 7 to about 12.5 (see section [0060] on page 5) and that the solvents are only optional (see section 0132 on page 11) and need not be present in the composition. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the alkaline-premoistened wipes of Barnabas to provide disinfectancy or sanitization because similar ingredients have been utilized.

With respect to the obviousness rejection based upon Barnabas in view of Barger, Applicants argue that, as stated above, Barnabas provides no suggestion or expectation of success for the limitations of amended claim 13, upon which claims 15, 20, 23 and 26 depend.

The response above with respect to Barnabas applies here as well. Hence, the combination of Barnabas with Barger is proper and is maintained.

With respect to the obviousness rejection based upon Magyar in view of Barger, Applicants argue that claims 14, 15, 19, 20, 22, 23, 25 and 26 are dependent upon claim 13 and for the same reason given above, Magyar does not anticipate, teach or suggest “having a pH greater than about 10” because Magyar is limited to and recommends lower pH compositions.

The response above with respect to Magyar applies here as well. Hence, the combination of Magyar with Barger is proper and is maintained.

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17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered cumulative to or less material than those discussed above.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lorna M. Douyon

Lorna M. Douyon
Primary Examiner
Art Unit 1751